

REMARKS

Claims 1-20 are pending in the application. By this Preliminary Amendment, claims 1 and 10 have been amended.

This Preliminary Amendment is being filed with a Request for Continued Examination (RCE). This Preliminary Amendment addresses the Advisory Action dated September 20, 2004.

Independent claim 1 stands rejected under Vasudeva, U.S. Patent No. 5,887,715. Also, independent claim 10 stands rejected under Vasudeva in view of Mitchell, U.S. Patent No. 4,058,210. The Advisory Action asserts that Vasudeva discloses the body 46 connected to the lid 3 is considered as one part which is the lid as claimed because during use, the body does not remove from the lid.

Applicant respectfully requests the Examiner to reconsider these rejections based on the amendments to claims 1 and 10 and the following distinguishing comments.

Vasudeva does not disclose or suggest the tool container recited in claim 1. As shown, for example, in Fig. 8 of Vasudeva, Vasudeva discloses a tool case that accommodates a separate and removable snap-in module 8. The module 8 includes a body 46 that defines the storage container 41 and a door 42 that is pivotably mounted to the body 46. None of the embodiments of Vasudeva disclose or suggest a one-piece cover portion having an elongated level storage space integrally formed in one piece therewith for storing a level therein, and a secondary cover portion pivotably mounted to the cover portion as recited in claim 1. Vasudeva does not disclose or suggest an elongated level storage space integrally formed in the lid 3. Moreover, Vasudeva does not disclose or suggest anything pivotably mounted to the lid 3. Withdrawal of the rejection of claim 1 is respectfully requested.

Neither Vasudeva nor Mitchell, alone or in combination, disclose or suggest the combination tool container and level recited in claim 10. As noted above with respect to claim 1, Vasudeva does not disclose a one-piece cover portion having an elongated level storage space integrally formed in one piece therewith, and a secondary cover portion pivotably mounted to the cover portion, as recited in claim 10. The Office Action relies on Mitchell to teach a tool case having a small compartment for holding a small level. Specifically, Mitchell teaches L-shaped blocks secured to opposite ends of the case that are designed to provide a support for a level. This does not cure the deficiencies of Vasudeva noted above. Withdrawal of the rejection of claim 10 is respectfully requested.

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Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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